IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 2003 OF 2005

Akdas Gulam Murtuza Khotal ...Petitioner

Versus

The Special Executive Magistrate and others ...Respondents

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Mr. M.S. Kadu, Advocate for Petitioner

Mr. B.H. Mehta, A.P.P. for State.

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CORAM: SMT. V.K. TAHILRAMANI, J.

DATED: 8TH SEPTEMBER, 2005

P. C.:-

1. Heard the learned advocate for the petitioner and the learned A.P.P. for the state.

2. The petitioner has prayed that the chapter proceedings i.e. Chapter case No. 274 of 2004 be quashed. The said proceedings are pending before the Special Executive Magistrate, Kalyan Division, Dist. Thane.

3. In the present case, it is seen that the show cause notice issued in the said proceedings was challenged by the petitioner by filing Criminal Writ Petition No.2330 of 2004. This Court by order dated 15.3.2005 has observed that the appropriate course,

is to keep all the contentions open and relegate the petitioner to contest the said proceedings by submitting detail response to the show cause notice received by him. In view of the order dated 15.3.2005, the proceedings cannot be quashed at this stage.

4. On instructions the learned A.P.P. has made a categorical submission that no final order has been passed in the said chapter proceedings and the matter is pending consideration before the Special Executive Magistrate. Some witnesses have been examined in the said proceedings.

5. In this view of the matter, I am not inclined to quash the chapter proceedings at this stage. Moreover, in my opinion, it would be premature to quash the proceedings against the petitioner at this stage. The Special Executive Magistrate shall give sufficient opportunity to the petitioner to defend himself by leading evidence if necessary and thereafter, decide the proceedings. In case order is passed directing the petitioner to execute a bond or furnish surety, he shall be given three days time to furnish bond and surety.

6. Writ petition is disposed of in terms of the above order.

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